

HUMAN SERVICES DEPARTMENT [441]  
**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, “Amount, Duration, and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The proposed amendments:

- Add new components to supported employment services offered under Medicaid home– and community–based habilitation services and the mental retardation and physical disability services waivers and increase the reimbursement limits for these services.
- Add Medicaid reporting requirements for physical therapists, chiropractors, and audiologists and hearing aid dealers that were inadvertently omitted from rules Adopted and Filed and published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6566B**.
- Remove the prohibition from receiving both Medicaid home– and community–based habilitation services and services under a home– and community–based services waiver. The federal requirement that the Department understood to prohibit this practice has been clarified.
- Update the home– and community–based habilitation services rules by removing obsolete provisions on assignment of service slots, clarifying the relationship between service plan approval and the beginning date of services, and clarifying that personal care and protective oversight and supervision may not be the only components received in home–based habilitation

services.

- Update the upper payment limit for home– and community–based waiver respite services provided in a foster group care facility to refer to the amount paid for child welfare services instead of rehabilitative treatment and supportive services, which are no longer available.

Providers of supported employment services have contacted Iowa legislators requesting a change in reimbursement. Services to assist members in obtaining a job are not widely available due to inadequate reimbursement. These amendments create three components of “activities to obtain a job”:

- Job development, which is directed at developing skills a person needs to obtain and keep a job and which is paid on the basis of a job placement that the person holds for 30 days or more.

- Employer development, which is directed at job analysis, support, accommodations, and technical assistance and which is paid on the basis of a job placement that the person holds for 30 days or more.

- Enhanced job search, which is available when a person has been unable to find a job after 30 days of job development services, has been laid off or fired, or seeks a new job based on personal choice and is paid using an hourly rate that is retrospectively adjusted based on the actual cost of the service.

Activities to obtain employment have a prerequisite of completion of the form that Iowa Vocational Rehabilitation Services uses to identify the supported employment services appropriate to meet a person’s employment needs. This requirement is intended to facilitate coordination with Iowa Vocational Rehabilitation Services and to assist in using funding sources

appropriately. Services are available only to members who can reasonably be expected to obtain competitive employment within one year.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 26, 2008, as **ARC 6676B**. The Department received 14 written comments on the Notice of Intended Action. The Department also held a public hearing on April 17, 2008, to receive comments, which was attended by seven people. A complete summary of the comments is available at

<http://www.dhs.state.ia.us/policyanalysis/RulesPages/phcomm.htm>.

Some commenters were concerned about the requirement that to qualify for job development service, a member must be expected to be able to enter competitive employment within a year. “Activities to obtain a job” are not intended to provide long-term funding of job development. The goal of the service has always been to obtain competitive employment. The definition of competitive employment has not changed.

Several comments criticized the requirements for obtaining funding both through Medicaid and through Iowa Vocational Rehabilitation Services, on the grounds that this service process is more inefficient and less effective than a “single-payer” process would be. However, federal Medicaid regulations for home- and community-based services specifically prohibit coverage of any service that is available through a program funded under section 110 of the Rehabilitation Act of 1973.

Many persons who commented were concerned about providers being unable or

unwilling to undertake job development services until after the person obtained employment. In response, the Department has added the following sentence to the amendments to subparagraph 78.27(10)“a”(1), numbered paragraph “1,” subparagraph 78.41(7)“a”(1), and subparagraph 78.43(4)“a”(1) as published under Notice of Intended Action: “Payment is available once the service is authorized in the member’s service plan.”

The Department has also made changes to subrule 79.1(2) to clarify that

- Job development services and employer development services are limited to two units per year; and
- The rate methodology for enhanced job search provided under the habilitation program is retrospective cost-related. Amendments to subrule 79.1(24) are added to refer to the new supported employment services.

The Council on Human Services adopted these amendments on May 14, 2008.

The Department finds that these amendments confer a benefit on Medicaid members and providers of supported employment services by increasing reimbursement for services. The changes to habilitation policies benefit Medicaid members by removing unnecessary limitations, streamlining procedures, and clarifying existing policies. The changes to the records rules benefit the affected providers by supplying needed detail on requirements for records. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on June 1, 2008.

The following amendments are adopted.

ITEM 1. Amend paragraph **78.27(2)“e”** by striking subparagraph (2) and renumbering

subparagraphs (3) to (5) as (2) to (4), respectively.

ITEM 2. Amend paragraph **78.27(3)“a”** by striking subparagraph (2) and renumbering subparagraphs (3) and (4) as (2) and (3), respectively.

ITEM 3. Amend subrule **78.27(4)**, paragraph “e,” as follows:

e. Plan approval. Services shall be entered into ISIS based on the comprehensive service plan. A service plan that has been validated and authorized through ISIS shall be considered approved by the department. Services must be authorized in ISIS ~~before the service implementation date.~~ as specified in paragraph 78.27(2)“e.”

ITEM 4. Amend subrule **78.27(7)**, paragraph “b,” by adopting **new** subparagraph (6) as follows:

(6) Personal care and protective oversight and supervision may be a component part of home-based habilitation services but may not comprise the entirety of the service.

ITEM 5. Rescind subparagraph **78.27(10)“a”(1)** and adopt the following **new** subparagraph in lieu thereof:

(1) Activities to obtain a job. Covered services directed to obtaining a job must be provided to or on behalf of a member for whom competitive employment is reasonably expected within less than one year. Services must be focused on job placement, not on teaching generalized employment skills or habilitative goals. Three conditions must be met before services are provided. First, the member and the interdisciplinary team described in subrule 78.27(4) must complete the form that Iowa vocational rehabilitation services uses to identify the supported employment services appropriate to meet a person’s employment needs. Second, the member’s interdisciplinary team must determine that the identified services are necessary.

Third, the Iowa Medicaid enterprise medical services unit must approve the services. Available components of activities to obtain a job are as follows:

1. Job development services. Job development services are directed toward obtaining competitive employment. A unit of service is a job placement that the member holds for 30 consecutive calendar days or more. Payment is available once the service is authorized in the member's service plan. A member may receive two units of job development services during a 12-month period. The activities provided to the member may include job procurement training, including grooming and hygiene, application, résumé development, interviewing skills, follow-up letters, and job search activities; job retention training, including promptness, coworker relations, transportation skills, disability-related supports, job benefits, and an understanding of employee rights and self-advocacy; and customized job development services specific to the member.

2. Employer development services. The focus of employer development services is to support employers in hiring and retaining members in their workforce and to communicate expectations of the employers with the interdisciplinary team described in subrule 78.27(4). Employer development services may be provided only to members who are reasonably expected to work for no more than 10 hours per week. A unit of service is one job placement that the member holds for 30 consecutive calendar days or more. Payment for this service may be made only after the member holds the job for 30 days. A member may receive two units of employer development services during a 12-month period if the member is competitively employed for 30 or more consecutive calendar days and the other conditions for service approval are met. The services provided may include: developing relationships with employers and providing leads for individual members when appropriate; job analysis for a specific job; development of a

customized training plan identifying job-specific skill requirements, employer expectations, teaching strategies, time frames, and responsibilities; identifying and arranging reasonable accommodations with the employer; providing disability awareness and training to the employer when it is deemed necessary; and providing technical assistance to the employer regarding the training progress as identified on the member's customized training plan.

3. Enhanced job search activities. Enhanced job search activities are associated with obtaining initial employment after job development services have been provided to the member for a minimum of 30 days or with assisting the member in changing jobs due to layoff, termination, or personal choice. The interdisciplinary team must review and update the Iowa vocational rehabilitation services supported employment readiness analysis form to determine if this service remains appropriate for the member's employment goals. A unit of service is an hour. A maximum of 26 units may be provided in a 12-month period. The services provided may include: job opening identification with the member; assistance with applying for a job, including completion of applications or interviews; and work site assessment and job accommodation evaluation.

ITEM 6. Rescind paragraph **78.41(7)“a”** and adopt the following **new** paragraph in lieu thereof:

a. Activities to obtain a job. Covered services directed to obtaining a job must be provided to or on behalf of a consumer for whom competitive employment is reasonably expected within less than one year. Services must be focused on job placement, not on teaching generalized employment skills or habilitative goals. Three conditions must be met before services are provided. First, the consumer and the interdisciplinary team described in 441—subrule 83.67(1) must complete the form that Iowa vocational rehabilitation services uses to

identify the supported employment services appropriate to meet a person's employment needs. Second, the consumer's interdisciplinary team must determine that the identified services are necessary. Third, the consumer's case manager must approve the services. Available components of activities to obtain a job are as follows:

(1) Job development services. Job development services are directed toward obtaining competitive employment. A unit of service is a job placement that the consumer holds for 30 consecutive calendar days or more. Payment is available once the service is authorized in the member's service plan. A consumer may receive two units of job development services during a 12-month period. The activities provided to the consumer may include:

1. Job procurement training, including grooming and hygiene, application, résumé development, interviewing skills, follow-up letters, and job search activities.

2. Job retention training, including promptness, coworker relations, transportation skills, disability-related supports, job benefits, and an understanding of employee rights and self-advocacy.

3. Customized job development specific to the consumer.

(2) Employer development services. The focus of employer development services is to support employers in hiring and retaining consumers in their workforce and to communicate expectations of the employers with the interdisciplinary team described in 441—subrule 83.67(1). Employer development services may be provided only to consumers who are reasonably expected to work for no more than 10 hours per week. A unit of service is one job placement that the consumer holds for 30 consecutive calendar days or more. Payment for this service may be made only after the consumer holds the job for 30 days. A consumer may receive two units of employer development services during a 12-month period if the consumer is



competitively employed for 30 or more consecutive calendar days and the other conditions for service approval are met. The services provided may include:

1. Developing relationships with employers and providing leads for individual consumers when appropriate.
2. Job analysis for a specific job.
3. Development of a customized training plan identifying job-specific skill requirements, employer expectations, teaching strategies, time frames, and responsibilities.
4. Identifying and arranging reasonable accommodations with the employer.
5. Providing disability awareness and training to the employer when it is deemed necessary.
6. Providing technical assistance to the employer regarding the training progress as identified on the consumer's customized training plan.

(3) Enhanced job search activities. Enhanced job search activities are associated with obtaining initial employment after job development services have been provided to the consumer for a minimum of 30 days or with assisting the consumer in changing jobs due to layoff, termination, or personal choice. The interdisciplinary team must review and update the Iowa vocational rehabilitation services supported employment readiness analysis form to determine if this service remains appropriate for the consumer's employment goals. A unit of service is an hour. A maximum of 26 units may be provided in a 12-month period. The services provided may include:

1. Job opening identification with the consumer.
2. Assistance with applying for a job, including completion of applications or interviews.

3. Work site assessment and job accommodation evaluation.

ITEM 7. Rescind paragraph **78.43(4)“a”** and adopt the following **new** paragraph in lieu thereof:

- a. Activities to obtain a job. Covered services directed to obtaining a job must be provided to or on behalf of a consumer for whom competitive employment is reasonably expected within less than one year. Services must be focused on job placement, not on teaching generalized employment skills or habilitative goals. Three conditions must be met before services are provided. First, the consumer and the interdisciplinary team described in rule 441—83.87(249A) must complete the form that Iowa vocational rehabilitation services uses to identify the supported employment services appropriate to meet the consumer’s employment needs. Second, the consumer’s interdisciplinary team must determine that the identified services are necessary. Third, the consumer’s case manager must approve the services. Available components of activities to obtain a job are as follows:

- (1) Job development services. Job development services are directed toward obtaining competitive employment. A unit of service is a job placement that the consumer holds for 30 consecutive calendar days or more. Payment is available once the service is authorized in the member’s service plan. 45A consumer may receive two units of job development services during a 12– month period. The activities provided to the consumer may include:

1. Job procurement training, including grooming and hygiene, application, résumé development, interviewing skills, follow–up letters, and job search activities.

2. Job retention training, including promptness, coworker relations, transportation skills, disability–related supports, job benefits, and an understanding of employee rights and self–advocacy.

3. Customized job development specific to the consumer.

(2) Employer development services. The focus of employer development services is to support employers in hiring and retaining consumers in their workforce and to communicate expectations of the employers with the interdisciplinary team described in rule 441—83.87(249A). Employer development services may be provided only to consumers who are reasonably expected to work for no more than 10 hours per week. A unit of service is one job placement that the consumer holds for 30 consecutive calendar days or more. Payment for this service may be made only after the consumer holds the job for 30 days. A consumer may receive two units of employer development services during a 12-month period if the consumer is competitively employed for 30 or more consecutive calendar days and the other conditions for service approval are met. The services provided may include:

1. Developing relationships with employers and providing leads for individual consumers when appropriate.
2. Job analysis for a specific job.
3. Development of a customized training plan identifying job-specific skill requirements, employer expectations, teaching strategies, time frames, and responsibilities.
4. Identifying and arranging reasonable accommodations with the employer.
5. Providing disability awareness and training to the employer when it is deemed necessary.
6. Providing technical assistance to the employer regarding the training progress as identified on the consumer's customized training plan.

(3) Enhanced job search activities. Enhanced job search activities are associated with obtaining initial employment after job development services have been provided to the consumer

for a minimum of 30 days or with assisting the consumer in changing jobs due to layoff, termination, or personal choice. The interdisciplinary team must review and update the Iowa vocational rehabilitation services supported employment readiness analysis form to determine if this service remains appropriate for the consumer’s employment goals. A unit of service is an hour. A maximum of 26 units may be provided in a 12-month period. The services provided may include:

1. Job opening identification with the consumer.
2. Assistance with applying for a job, including completion of applications or interviews.
3. Work site assessment and job accommodation evaluation.

ITEM 8. Amend rule 441—79.1(249A) as follows:

Amend subrule **79.1(2)** as follows:

Amend provider category “HCBS waiver services providers” as follows:

Amend numbered paragraph “6,” “Facility care: foster group care,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Foster group care	Fee schedule	\$12.99 per hour not to exceed daily per diem rate for <del>rehabilitative treatment and supportive</del> <u>child welfare</u> services.

Amend numbered paragraph “19” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
19. Supported employment: Activities to obtain a job:		
<u>Job development</u>	Fee schedule	<del>\$500</del> <u>\$900</u> per unit <del>not to exceed \$1,500 per calendar year (job placement).</del> <u>Maximum of two units per 12 months.</u>
<u>Employer development</u>	Fee schedule	<u>\$900 per unit (job placement). Maximum of two units per 12 months.</u>
<u>Enhanced job search</u>	<u>Retrospectively limited prospective rates. See 79.1(15)</u>	<u>Maximum of \$34.63 per hour and 26 hours per 12 months.</u>
Supports to maintain employment	Retrospectively limited prospective rates. See 79.1(15)	No change

Amend provider category “Home– and community–based habilitation services,” numbered paragraph “5,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
5. Supported employment: Activities to obtain a job:		
<u>Job development</u>	<del>Retrospective cost–related. See 79.1(24)</del> <u>Fee schedule</u>	<del>\$500</del> <u>\$900</u> per <del>job unit, not to exceed</del> <u>\$1,500 per calendar year (job placement).</u> <u>Maximum of two units per 12 months.</u>

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
<u>Employer development</u>	<u>Fee schedule</u>	<u>\$900 per unit (job placement). Maximum of two units per 12 months.</u>
<u>Enhanced job search</u>	<u>Retrospective cost–related. See 79.1(24)</u>	<u>Maximum of \$34.63 per hour and 26 hours per 12 months.</u>
Supports to maintain employment	Retrospective cost–related. See 79.1(24)	No change

Amend subrule 79.1(15), introductory paragraph, as follows:

**79.1(15)** HCBS retrospectively limited prospective rates. This methodology applies to reimbursement for HCBS supported community living; HCBS family and community support services; HCBS supported employment enhanced job search activities; HCBS interim medical monitoring and treatment when provided by an HCBS–certified supported community agency; HCBS respite when provided by nonfacility providers, camps, home care agencies, or providers of residential–based supported community living; and HCBS group respite provided by home health agencies.

Amend subrule 79.1(24), introductory paragraph, as follows:

Amend the introductory paragraph as follows:

**79.1(24)** Reimbursement for home- and community-based habilitation services. Reimbursement for case management, job development, and employer development is based on a fee schedule developed using the methodology described in paragraph 79.1(1)“d.” Reimbursement for home-based habilitation, day habilitation, prevocational habilitation, enhanced job search and ~~supported~~ supports to maintain employment is based on a retrospective cost-related rate calculated using the methodology in this subrule ~~79.1(24)~~. All rates are subject

to the upper limits established in subrule 79.1(2).

Amend paragraph “a,” subparagraph (5), as follows:

(5) A unit of supported employment habilitation for activities to obtain a job is:

1. ~~one~~ One job placement for job development and employer development.

2. One hour for enhanced job search.

ITEM 9. Amend subrule **79.3(2)**, paragraph “d,” by adopting **new** subparagraphs **(36)**, **(37)**, and **(38)** as follows:

(36) Physical therapist services:

1. Physician order for physical therapy.
2. Initial physical therapy certification, recertifications, and treatment plans.
3. Treatment notes and forms.
4. Progress or status notes.

(37) Chiropractor services:

1. Service or office notes or narratives.
2. X-ray results.

(38) Hearing aid dealer and audiologist services:

1. Physician examinations and audiological testing (Form 470–0361, Sections A, B, and C).
2. Documentation of hearing aid evaluation and selection (Form 470–0828).
3. Waiver of informed consent.
4. Prior authorization documentation.
5. Service or office notes or narratives.